

Untitled Document GUAM DEPARTMENT OF LABOR
Alien Labor Processing & Certification Division

New H-2B Worker Orientation

The following orientation sheet was developed to help newly arrived H-2B workers gain valuable facts that will help them while employed in Guam.

IDENTIFICATION (for all non-U.S. Citizens)

Always carry picture identification.

- Green Card or Work Authorization (for immigrants)
- DOL ID card (for H-2B workers)
- I-94 and another photo ID (for other types of visa holders)

Government officials will always ask for identification. If you are unable to provide such identification, you may be detained, until such time, you are able to produce proper identification. Passports are the property of the country who issues the passport. Workers may ask employers to hold their passport for safekeeping, but you must make this request in writing and keep a copy for your records. Employers are prohibited from forcefully holding the passports of workers.

WORKER BOARD & LODGING

Cost – The employer may deduct up to \$80.00 per week for board and lodging, however, if the employer's actual cost is more, they may justify as such and a higher rate may be approved by Guam Department of Labor (GDOL).

Housing Complaints- If workers are concerned with their housing arrangements due to safety or sanitary issues, they may report this to GDOL. Our inspectors will look into all complaints.

Company Rules- The employer has the right to set house rules which the workers must follow. It is common for employers to require workers to maintain the cleanliness and order in the workers housing facilities. Workers who don't comply may face termination of employment.

Employer control of worker behavior after working hours- Employers may not control the behavior of workers after working hours, however, workers are expected to follow house rules while in the barracks.

Residing outside of employer housing- Employers are required to provide workers housing if they employ more than 5 H-2B workers, however, if the employer and worker agree, the

worker may seek housing on their own. Before this can occur, the proposed living arrangement must be reviewed and approved by GDOL.

PAY & WORKING HOURS

Working Hours- The employer may set whatever working hours are necessary based on his business need. Generally, days consist of 8 hours of work but, this is not required. Time that is compensated is limited to the time that a worker is providing services for the employer. Breaks for meals or rest are not compensable.

Prevailing Wages- H-2B workers are guaranteed a certain pay rate for the occupation which they were hired for. This rate should be reflected in the employment contract and is on the labor certification that was approved before the worker was petitioned. If workers are paid less than the prevailing wage, they may be eligible for back pay and the employer may face strict penalties.

Pay Issues- Overtime pay must be paid for any hours worked in excess of 40 per work week. Overtime is not necessarily payable if you worked over 8 hours on a particular day but, is due if you exceed 40 hours for the work week. The employer may not deduct any wages from your pay unless the worker has authorized the deduction in writing. The employer must provide you a statement of your wages every payday. This is usually a check stub or a print out of your wages, in cases where there is direct deposit into the bank.

Here is a list of contact numbers for local banking institutions:

Bank of Guam 472-5300/477-7406
Bank of Hawaii 479-3500/1-877-553-2424
Bank Pacific 472-6704/472-8593
Citizens Security Bank 479-9000
First Hawaiian Bank 475-7900

* These are the 5 major banking institutions in Guam. There are other banks and credit unions who also provide excellent services. Please refer to the Guam Phone Book for contact information.

Remittances:

Metro Bank 649-9555/6/7
Allied Bank 649-5001
Philippines National Bank 637-4982

EMPLOYMENT CONTRACT

The employment contract which was signed by the worker and employer is on file with GDOL. The contract will be the guiding document GDOL will recognize in dealing with the employment relationship. In cases where there is a dispute that cannot be resolved by GDOL, enforcement of the employment contract must be handled by the courts in a civil law suit.

Terminations & Resignations- The employer has the right to terminate the employment of any worker for whatever reason since the job is “at will” employment, again GDOL will attempt to moderate any problems, but, in the end, the employer has final say as to who they will or will not employ. Workers also have the right to resign. In the case of a resignation, the employer must provide air transportation back to the point of hire.

Manning Agencies- Workers are cautioned to be aware of unscrupulous recruiters or manning agencies in the Philippines. Many times these bad companies charge much more than is allowed by POEA. Workers must protect themselves from being victimized with promises of work in the U.S. It is important to remember that H-2B workers are normally on a yearly contract that can be renewed up to 3 years, but extension is not guaranteed.

Be aware of your expiration date- It is vitally important that workers know when their authorized employment expires. If a worker stays in Guam and is no longer authorized (called “overstay”), the worker may face deportation and possibly being barred from returning to the U.S. for 10 years to life. Never overstay and continue to work. Workers who are caught often must stay in prison for over a month while proper deportation procedures are done.

LIMITATIONS & COMPLIANCE

H-2B ID cards will be issued to each worker, normally within a month from arrival. The workers must display the card during working hours. The employer may be fined for workers who are not in compliance. The worker is limited to doing only the work that he was hired to do. In isolated instances, a worker may be asked to help with job duties not associated with his occupation. For example, a carpenter may be asked to help during concrete pouring because of

the urgency to work on the concrete before it cures. As a general measure, a worker should not spend more than 10% of his time doing duties not associated with his occupation. The worker is also limited to specific job sites. The employer must ensure that H-2B workers are used only on those job sites approved by GDOL. H-2B workers must work only for the employer who is listed on their visa. Sideline work is prohibited. Workers caught doing this are violating the terms of their visa and may be terminated and sent back to the Philippines.

WORKER COMPLAINTS & COMMON PROBLEMS

The Department of Labor is available to receive any complaints a worker may have, but, not all matters in which a worker may have issues with are addressable by law. In these cases, we try to help arbitrate to whatever extent possible. In all cases, complaints are investigated and handled as expeditiously as possible. In some cases, investigations may take longer due to high caseloads on our investigators. Here is a list of contact numbers for offices who handle complaints:

Alien Labor Processing & Certification Division 475-7005/29
U.S. Department of Labor (Wage and Hour) 473-9177/8
Guam Department Labor (Wage and Hour) 475-7050/1

OSHA Enforcement 642-0175/6
Guam Police Department 475-8508/9/18/12
Immigration Customs Enforcement 1-866-347-2423
Office of the Governor, Community Affairs 475-9336
Attorney General's Office (Consumer Protection) 475-3324 ext. 133

One problem that does arise often is the filing of frivolous or false complaints. There have been many cases where workers who find out that they will be sent home, have filed complaints alleging non-payment of wages. Our investigators are highly skilled and experienced. False complaints are easily detected and in most cases, we will ask the employer to repatriate workers who misrepresent themselves to the Government of Guam.

Before a worker departs Guam, the employer must report the scheduled departure to the GDOL two weeks prior to the departure date. In cases where an unplanned departure is necessary for emergency reasons, GDOL may waive the time requirement. Normally, the worker will be asked to write a statement or request to justify the waiver.

H-2B workers are required to file tax returns yearly. In order to ensure that proper taxes are paid and that workers do not owe taxes to the Government of Guam, it is suggested that workers file a "single 0" on their W-4 form at the beginning of their employment. Taxes are important because workers who have tax problems may not be able to be cleared for future employment or federal services.

HELPFUL TIPS

• Never run from law enforcement. Even if you are legal, officers will chase and handcuff you if you run when being approached. Never be scared. Guam's Law enforcement officers are fair and professional.

• When law enforcement or inspectors come to your jobsite, make sure to provide them with your identification and answer any questions they may have truthfully. Always be respectful.

• Beware of imposters posing as law enforcement. Ask to see identification if you are in doubt. Compliance officers will NEVER ask you for money or to do anything illegal. In these cases, report suspicious activity to GDOL at 475-7005/7029.

• If you have concerns over the proper payment of your wages, report it to DOL immediately. Do not wait until the end of your employment to file a wage complaint.

• Keep your own record of your time and attendance on a daily or weekly basis. If you are in a dispute over wages, this is the most valuable tool you will have to justify your complaint.

• Report any violence in the barracks to the Guam Police and GDOL immediately. Your safety is the most important thing.

• More information and resources are available on our website at www.guamdol.net.

The Guam Department of Labor welcomes you to Guam and hopes that your future as a temporary worker in Guam is pleasant and rewarding.

You have our thanks in helping Guam become the paradise that it is.